

LESSON 23 Arguments over Constitutional Ratification

Background Information

The original government of the United States, called the Articles of Confederation, was comprised of a weak central government and very strong state governments. The Constitution written in 1787 made the central government much stronger and the state governments weaker. In the struggle to get the new Constitution ratified (approved) supporters of the Constitution were called Federalists, while opponents were called Antifederalists.

This lesson contains two arguments on whether or not the Constitution should be approved. The first argument, “Federalist Paper 10,” was written by James Madison as part of *The Federalist Papers*, a series of newspaper essays in favor of ratification in New York. The second argument, known as the “Brutus’ Essay,” was also printed in New York newspapers and was probably written by the Antifederalist

Robert Yates, a New York judge. The name “Brutus” was used to convey the idea of the heroic Roman republican (the Antifederalists) who killed the tyrant Caesar (the new, tyrannical Constitution).

The two arguments focus on how to control factions in society and promote the public good. A *faction* is a group of people, such as farmers, with a common interest. For example, the owners of automobile companies may follow the interest of their faction by opposing pollution control devices on cars because it will increase manufacturing costs. On the other hand, these owners may decide against their own factional interests and support the antipollution devices for the good of the country at large; i.e., the public good.

These arguments focus on the question, “What kind of government is most likely to control self-interest and promote decisions based on the public good?”

Argument A

(1) People in all societies tend to organize into factions or groups to promote what is good for **them** rather than what is good for society in general. We should concern ourselves with how to deal with these factions and promote the public good, that is, the good of society in general.

(2) One option is to control the causes of factions. We could destroy the liberty on which factions depend—but that is worse than having factions. We could make everyone have the same opinions, thereby eliminating factions—but that is impossible. It seems clear, then, that factions cannot be prevented by controlling their causes.

(3) A second option is to control the

effects of factions. Minority factions are not a serious problem, for when a faction is a minority it cannot legitimately (legally) take control of the government. When a faction is a majority, however, it can legally pass laws to help its own interests at the expense of the public good and to the detriment of the rights of other citizens. This control by a majority faction is a real danger in a pure democracy (a small nation in which the people vote directly on laws and policy), for the majority can easily get together to promote its interests on particular issues. For example, a business faction might pass laws for the government to build

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Argument A

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roads that would help businessmen at taxpayers' expense.

(4) A republic (a large nation in which the people elect representatives to decide on laws and policy), on the other hand, has more people and more factions. It is more difficult for a majority to organize a faction on a particular issue, and it is harder for a faction to operate in a united way. Furthermore, representatives in a republic are a chosen body of citizens whose wisdom may best discern (recognize) the true interest of their country—the public good.

(5) Demagoguery (gaining power by appealing to the prejudices and/or ignorance of the masses of the people) is

one possible problem that may arise in electing representatives. A large republic, however, would overcome this problem. Since there are more people from which to choose representatives, and since there are more people to vote on each representative, there is less possibility of demagoguery. As a result, a large republic is more likely to elect enlightened (knowledgeable) representatives.

(6) This new constitution, now proposed for the United States, strengthens the central government, thereby establishing our country as a large republic. Through this new constitution, we will be able to control the problem of factions and to promote the public good by electing enlightened men as representatives.

Argument B

(1) Our country is in a critical period with regard to our government. We have been offered a new constitution to consider, and we should consider it carefully. The main question for consideration is whether these thirteen states should be reduced to one great republic or should continue as thirteen confederated republics.

(2) It is clear that the government proposed under the new constitution will effectively consolidate the United States into one republic. State governments will have little power, while the federal (central) government will dominate (control things). According to Article 6 of the new constitution, the laws of the United States government “shall be the supreme law of the land,” clearly dominant over state laws. The federal government will have the power to tax and raise an army—both of which give it power over the states. Additionally, Article 1, Section 8 of the new constitution

declares “that Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.” This clause could be interpreted to justify passing almost any law. Thus, the federal government will continuously expand its power at the expense of the states.

(3) Given, then, that the constitution replaces thirteen confederated states with one great republic, the questions to consider are “Will it work? Will it help us remain free and strong?” The answer, clearly, is that it will not.

(4) A free republic cannot succeed over such a large area with so many inhabitants. Many illustrious authorities could be used to support the point but I will content myself with quoting only two. In *Spirit of Laws*, the Baron de Montesquieu says, “It is natural to a republic to have only a small territory, otherwise it cannot long subsist. In a large republic there are men

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Argument B

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of large fortunes, and consequently of less moderation.... In a large republic the public good is sacrificed to a thousand views.... In a small one, the interest of the public is easier perceived, better understood, and more within the reach of every citizen; abuses are of less extent, and of course are less protected.” (Ch. XVI, Vol. 1, Book VIII) The Marquis Beccarari holds the same opinion.

(5) Moreover, history furnishes no examples of a free republic of a size anything like the United States. The Greek and Roman republics began small. When they extended their territories by conquests (war) and became large, their governments changed from free republics to some of the most tyrannical (unfree) governments that ever existed.

(6) If the people are to agree with the laws, representatives who pass the laws must know the people’s views well enough to state the will of the people. If they do not know the people, then they can’t speak for the people, and the people do not govern; power is in the hands of a few representatives. Since it

is impossible for the representatives in a large republic to know the views of so many people, they can’t pass laws in the name of the people. Increasing the number of representatives—so that each official represents a smaller number of people—doesn’t work, because then there would be so many representatives that the government would be unwieldy, (unable to function well).

(7) In a large republic, such as the new constitution would provide, the people would know neither their representatives nor the reasons for their decisions. Suspicious of their representative’s motives, people would not willingly support the laws. Thus, the government would have to use armed force to carry out the laws, and government by the people would be converted to government by force.

(8) Thus, it can be seen that the proposed republic should be rejected. It will bring about a constant clash of views; it will cause strife which will slow governmental operation; and it will prevent decisions based on the public good.

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Analyzing the Ratification Arguments



Refer to Federalist Paper 10 [Argument A] to answer the following questions.

1. What is the main point of this argument?
2. Evaluate the cause-and-effect reasoning in the argument. What does the author say causes factions? How strong is the reasoning?
3. What other type(s) of reasoning (comparison, generalization, proof, eliminating alternatives) does this author use? Evaluate this reasoning. (Look in the “Guide to Critical Thinking” [Unit 1] if you need help.)
4. Based on this argument, list two of the author’s (James Madison’s) beliefs about good government.
5. Madison claims that a large republic will stop factions from dominating the government by preventing factions from getting together. Is this advantage also true today? (Think of the kind of reasoning you are using.)



Refer to “Brutus’ Essay I” [Argument B] to answer the following questions.

6. What is the main point of this argument?

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7. What is the point of paragraph 2? How well does the author prove it?
8. What type of reasoning (comparison, cause-and-effect, generalization, proof, eliminating alternatives) is used in paragraph 4? If you see more than one, write them all down. Evaluate one of the types of reasoning used.
9. Identify and evaluate the reasoning used in paragraph 5.
10. Evaluate the arguments presented in paragraphs 6 and 7.
11. What assumptions does this author make? Watch especially for unstated assumptions.



Consider both arguments in answering the following.

12. On what points, if any, do both authors agree?
13. What is your view on how to achieve the public good? If you think the public good should not be emphasized, explain your position.

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Making Government Policy: Factions vs. Public Good



How do you think each group listed would answer the given question? Explain why you think so.

1. Should we have a tariff on foreign cars coming into the United States?
 - a. American automobile companies
 - b. American consumers
 - c. United Auto Workers Union
 - d. Car dealers
 - e. Stockholders (investors) in American auto companies
2. Should the United States continue to operate nuclear power plants to generate electricity?
 - a. Construction workers who build nuclear power plants
 - b. Electric companies
 - c. Consumers of electricity
 - d. Coal companies (Note: Coal is also used to generate electricity.)
 - e. Environmentalists
 - f. People who live close to the power plants but don't work there
 - g. Nuclear power plant workers
 - h. Companies that supply nuclear power plants
 - i. Stockholders in nuclear power plants

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Answer the following questions on government policy.

3. If you were a lawmaker—let’s say a Senator—would it be better for the country in the long run for you to decide issues based on:
- principles of right and wrong?
 - the interest of one group because that group has a great deal of political power or because you like that group?

Explain your answer.

4. Considering any issue—for example, the one on nuclear power plants in question 2—would it be better for the country in the long run to:
- have one of the groups listed (i.e., the electric companies) control the government and pass laws to help its own interest?
 - have the various interests compete?
 - have the issue decided on its merits based on what is best for the country?

Explain your answer.



The various groups listed in questions 1 and 2 are called *factions*. Considering the good of the whole country is called *thinking of the public, or common, good*.

5. Do you think factions would ordinarily think of the public good in deciding an issue? Explain your answer.
6. How can a society get its people to consider the public good over their own self-interest?

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7. How can a government be set up to minimize the effects of factions and maximize consideration of the public good?

8. How can a government be set up to prevent a single faction or group of factions from taking control of the government?

9. Is it better for the country to have each representative chosen from a small or a large number of people? Explain your answer.

10. Should representatives always know how their constituents (citizens in their district) feel on issues before deciding how they will vote? Should they always follow their constituents' views, even if they disagree with those views? Why or why not?

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